

Appl. No. : 10/623,119
Filed : July 17, 2003

REMARKS

Claims 1 and 18 have been amended to incorporate the specific R_{10} definition previously found in Claims 2 and 19, with the exception that C_{1-8} alkyl is specified instead of C_{2-8} alkyl. Claims 1 and 18 have been further amended to be commensurate with the scope of the examination, specifically limiting W_1 to S. Claims 2 and 19 have been amended to remove the subject matter incorporated into Claims 1 and 18. Claims 17 and 34 have been amended to remove compounds no longer falling within the scope of Claims 1 and 18. No new matter has been introduced by the amendments. Claims 1-3, 5-8, 17-20, 22-25, and 34 remain pending.

The Applicants have carefully considered all of the Examiner's rejections but respectfully submit that the claims are allowable for at least the following reasons.

Rejections under § 112 – Indefiniteness

The Examiner rejected Claims 1-2 and 18 under 35 U.S.C. § 112, ¶ 2 as being indefinite. The Examiner asserted that the term "heteroalkyl" is indefinite because a heteroatom in the backbone of an alkylene chain is different than a heteroatom as a substituent. The Applicants respectfully submit that one of skill in the art would recognize that the term "heteroalkyl" refers to a heteroatom in the backbone of the chain. The specification specifically refers to a "heteroalkyl" as indicating "an alkane group containing 1 to 2 heteroatoms selected from O, S or N." Specification, paragraph 0044. Attached as Appendix A is a journal article demonstrating how one of skill in the art understands the term "heteroalkyl." Footnote 19 in the article states that "[a] *heteroalkane* is an alkane where *h* carbon atoms have been replaced by heteratoms," in other words, where the heteroatom is present in the backbone. Accordingly, the Applicants respectfully submit that the term "heteroalkyl" is not indefinite.

The Examiner also asserted that the phrase "form a cyclic structure" is indefinite. The Applicants have deleted the phrase, thereby rendering this rejection moot.

Rejections under §§ 102 and 103

The Examiner rejected Claims 1, 5-7, 18, and 22-24 under 35 U.S.C. § 102(b) and § 103(a) in view of U.S. Patent Nos. 3,417,087 and 4,186,136 and Chem. Abstracts 70:37702, 119:117118, and 126:8111. However, the Examiner noted that the specific R^{10} limitations in Claim 2 were neither anticipated by nor rendered obvious by the art of record. Accordingly, solely to expedite the allowance of the present application, the Applicants have incorporated the

Appl. No. : 10/623,119
Filed : July 17, 2003

R¹⁰ limitations previously found in Claims 2 and 19 into Claims 1 and 18, with the exception that C₁ alkyl (e.g., methyl) has been retained for R¹⁰. Applicants reserve the right to pursue claims having the scope of Claims 1 and 18 prior to the present amendment in later filed applications. Thus, the Applicants respectfully submit that the claims as amended are novel and non-obvious as already noted by the Examiner.

CONCLUSION

By the foregoing amendments and arguments, the Applicants respectfully submit that the claims are in condition for allowance and request a timely issuance of a notice to that effect.

No fees are believed due, however, if any fees are found to be due, please charge the fees, including any fees for an extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11-17-06

By: Ryan E. Melnick
Ryan E. Melnick
Registration No. 58,621
Attorney of Record
Customer No. 20,995
(619) 235-8550

3037184
111706